

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

SPHERE DIGITAL, LLC

Plaintiff,

v.

10X MEDIA COMPANY, *et al.*,

Defendants.

Case No. 21-cv-2412 (RA)

**MOTION FOR CONTINUANCE OF INITIAL STATUS CONFERENCE AND
DEADLINE FOR PARTIES' JOINT SUBMISSION**

Pursuant to Federal Rule of Civil Procedure 6(b)(1), Plaintiff Sphere Digital, LLC respectfully requests that the June 18, 2021, deadline for the parties' submission of a joint letter to the Court and the June 25, 2021, initial status conference set in the March 26, 2021 Order be continued. In support of this motion, Sphere Digital states as follows:

1. Sphere Digital filed this action on March 19, 2021, against Defendants 10X Media Company ("10X") and 10X's president, Brett Benning ("Benning"). (ECF No. 1.)
2. Sphere Digital subsequently effected service on 10X on April 19, 2021, by serving 10X's registered agent with the civil cover sheet, summons, complaint and exhibits thereto, and the Court's March 26, 2021 Order and Notice of Initial Conference. (ECF No. 12.) Sphere Digital filed proof of service with respect to 10X on April 30, 2021. (*Id.*)
3. 10X has not answered or otherwise responded to the complaint, nor has anyone contacted Sphere Digital or its counsel on behalf of 10X since the complaint was served.
4. In light of 10X's failure to respond to the complaint, Sphere Digital intends to seek a default judgment as to 10X, and is in the process of preparing an appropriate filing in this respect.

5. With respect to Defendant Benning, despite diligent efforts, Sphere Digital has thus far been unable to effect service of the summons and complaint. In accordance with the Court's June 14, 2021 Order, on or before June 21, 2021 Sphere Digital intends to file a motion seeking an extension of time to serve the summons and complaint on Benning and requesting the Court's permission to serve Benning by publication because other means of service have proven ineffective.

6. Because Sphere Digital has not yet been in contact with counsel for either 10X (which has failed to respond to the properly served complaint) or Benning (whom Sphere Digital has been unable to serve through ordinary means), good cause exists as to why the parties are unable to submit by June 18, 2021, the joint letter requested by the Court in its March 26, 2021, Order.

7. Further, while counsel for Sphere Digital is prepared to appear before the Court at the scheduled initial status conference on June 25, 2021, in light of the lack of response from 10X and lack of service of Benning, and because Sphere Digital intends to file soon both a motion seeking to serve Benning by alternative means and a motion for a default judgment at to 10X, good cause exists to continue the June 25, 2021 initial status conference to a later date.

WHEREFORE, Sphere Digital respectfully requests that the Court grant the Court continue the deadline for the parties' joint letter submission and the initial status conference set in the Court's March 26, 2021 Order.

Dated: June 17, 2021

Respectfully submitted,

By: /s/ P. Randy Seybold

Application granted. The initial pre-trial conference is hereby adjourned sine die.
SO ORDERED.



Ronnie Abrams, U.S.D.J.
June 18, 2021

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Attorneys for Sphere Digital, LLC

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was sent by first class mail to the registered agent for Defendant 10X Media Company and to Defendant Brett Benning, respectively, at the addresses listed below.

10X Media Company
30 North Gould Street
Suite 2738
Sheridan, WY 82801

Brett Benning
4400 N. Scottsdale Rd., #9-123
Scottsdale, AZ 85251

/s/ P. Randy Seybold
P. Randy Seybold